UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA,

v. 16 CR 522 (RJS)

PASQUALE PARRELLO, JOSEPH MERLINO, EUGENE O'NOFRIO, CONRAD IANNIELLO, ISRAEL TORRES, ANTHONY ZINZI, ANTHONY VAZZANO, ALEX CONIGLIARO, FRANK BARBONE, RALPH BALSAMO, PASQUALE MAIORINO, JOHN SPIRITO, VINCENT CASABLANCA, MARCO MINUTO, PAUL CASSANO, DANIEL MARINO, JR., JOHN LEMBO, MITCHELL FUSCO, REYNOLD ALBERTI, VINCENT TERRACCIANO, JOSEPH TOMANELLI, AGOSTINO CAMACHO, NICHOLAS DeVITO, ANTHONY CASSETTA, NICHOLAS VUOLO, BRADFORD WEDRA, MICHAEL POLI, PASQUALE CAPOLONGO, ANTHONY DePALMA, JOHN TOGNINO, MARK MAIUZZO, JOSEPH DiMARCO, HAROLD THOMAS, RICHARD LaCAVA, VINCENT THOMAS, FRANK TRAPANI, ANTHONY CIRILLO, CARMINE GALLO, JOSEPH FALCO, FRANCESCO DePERGOLA, RALPH SANTANIELLO, CRAIG BAGON, BRADLEY SIRKIN, WAYNE KREISBERG,

Defendants. ARRAIGNMENT/CONFERENCE

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New York, N.Y.
August 23, 2016
11:43 a.m.

Before:

HON. RICHARD J. SULLIVAN,

District Judge

APPEARANCES

PREET BHARARA,
United States Attorney for the
Southern District of New York
AMANDA K. KRAMER
ABIGAIL S. KURLAND
JONATHAN REBOLD
Assistant United States Attorneys

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EDWIN J. JACOBS
Attorney for Defendant Merlino

THOMAS H. NOOTER
Attorney for Defendant O'Nofrio

JOYCE LONDON (standing in for Lisa Scolari)
Attorney for Defendant Ianniello

MATTHEW J. KLUGER
Attorney for Defendant Torres

ALLAN P. HABER
Attorney for Defendant Zinzi

LORRAINE GAULI-RUFO
Attorney for Defendant Vazzano

RICHARD J. MA
Attorney for Defendant Conigliaro

JAKE LaSALA
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LAWRENCE R. DiGIANSANTE
Attorney for Defendant Balsamo

EDWARD HAMMOCK
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APPEARANCES (continued)

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GERARD M. MARRONE
Attorney for Defendant Santaniello

BRUCE E. REINHART
Attorney for Defendant Bagon

JAMES R. FROCCARO, JR.
Attorney for Defendant Sirkin

JOSEPH MILANO
Attorney for Defendant Kreisberg

ALSO PRESENT: JOY ADAM, FBI
LAUREN ABINANTI, Special Ass't US Atty
CHLOE MARMET, Paralegal, USAO

(Case called)

THE COURT: There are a lot of folks here, so it may take a little bit of time just to get everybody situated where they need to be. Hopefully you've all got all the lawyers and defendants have name tags and told them where to sit. We've got some relatives, friends, family members, others coming in now, so let's just give them a second so they can find seats.

All right. If everybody could grab a seat.

Thank you.

We're going to take appearances, which could take a while, because we have a lot of defendants; but I want to make sure I know that each defendant is here and that they've got counsel. We'll take them in the order of the indictment, starting with Mr. Parrello.

MR. FAGA: Kevin Faga, spelled F-A-G-A, for Mr. Parrello.

Good morning, your Honor.

THE COURT: Mr. Faga, good to see you.

Mr. Parrello is?

MR. FAGA: Mr. Parrello right there.

THE COURT: All right. Mr. Parrello, good morning to you. Thank you.

Next we have Joseph Merlino.

MR. JACOBS: Good morning, Judge.

My name is Edwin Jacobs.

THE COURT: Mr. Jacobs.
And Mr. Merlino is with you there?
MR. JACOBS: Yes, he is.
THE COURT: Good morning to each of you. Thank you.
Next we have Eugene O'Nofrio.
MR. NOOTER: Good morning, your Honor.
Thomas Nooter for Mr. O'Nofrio, who is standing next to me.
There is a chair with my name on it, but no chair for my client, so that's why he and I are sitting here.
THE COURT: All right. That's fine.
Good morning to each of you.
Next we have Conrad Ianniello.
Am I pronouncing that right?
MS. LONDON: Yes, your Honor.
Joyce London, appearing for Lisa Scolari.
Mr. Ianniello is standing in the jury box.
THE COURT: Okay.
And it's Ianniello? Am I pronouncing that right?
Okay. Mr. Ianniello, good morning and thanks.
Sorry. Next we have Mr. Torres, Israel Torres.
MR. KLUGER: Good morning, your Honor. Matt Kluger for Israel Torres, who's standing to my right in the jury box.
THE COURT: Okay.
Mr. Kluger, good to see you.

Mr. Torres, good morning.

The next defendant is Anthony Zinzi.

MR. HABER: Good morning, your Honor.

Allan Haber for Mr. Zinzi.

THE COURT: Mr. Zinzi, good morning.

Mr. Haber, good morning.

Is Mr. Goldsmith on this case?

MR. HABER: No, your Honor. I filed a notice replacing him.

THE COURT: Okay. So the designation for you is *pro bono*, but you're retained or --

MR. HABER: No. *Pro bono*.

THE COURT: *Pro bono*. Okay.

Next we have Anthony Vazzano.

MS. GAULI-RUFO: Yes. Good morning, your Honor.

Lorraine Gauli-Rufo on behalf of Mr. Vazzano, who is standing right next to me, your Honor.

THE COURT: Good morning to each of you. Thank you.

Next is Alex Conigliaro.

MR. MA: Good morning, Judge.

Richard Ma appearing on behalf of Mr. Conigliaro, standing to my right.

THE COURT: Yes. All right.

Good morning to each of you. Thank you.

The next defendant on the indictment is Frank Barbone.

"Barbone," is it pronounced?

MR. LaSALA: Good morning, your Honor.

Jake LaSala for Mr. Barbone, standing right next to me.

THE COURT: Okay. Good morning to each of you. Thank you.

Is it Barbone or Barbone?

DEFENDANT BARBONE: Either one.

THE COURT: Well, it's your name; you get to choose.

DEFENDANT BARBONE: Barbone is fine.

THE COURT: Barbone? Okay, Mr. Barbone.

Then we have Ralph Balsamo.

MR. DiGIANSANTE: Lawrence DiGiansante for Mr. Balsamo, standing to your right, your Honor.

THE COURT: Okay. Good morning to you.

I did have a question for you, Mr. DiGiansante.

Are you also representing another defendant?

MR. DiGIANSANTE: Yes, your Honor, Harold Thomas.

At this time the government has said there's no identifiable conflict; that we have to address that with the Court.

THE COURT: Okay. So we'll come back to that. Thanks very much.

Next we have Pasquale Maiorino. Am I pronouncing that right?

MR. HAMMOCK: For Mr. Maiorino, it's Edward Hammock, your Honor.

THE COURT: All right. Mr. Hammock.

MR. HAMMOCK: Mr. Maiorino is standing over there.

THE COURT: Mr. Maiorino. Okay.

Am I pronouncing your name right?

DEFENDANT MAIORINO: You are.

THE COURT: All right.

Good morning. Thanks.

Next we have John Spirito.

MR. SCHOLAR: Good morning, your Honor.

Calvin Scholar for Mr. Spirito, who's standing next to me.

THE COURT: All right. Mr. Scholar, Mr. Spirito, good morning.

Next is Vincent Casablanca.

MR. DiBENEDETTO: Good morning, Judge.

Joseph DiBenedetto for Mr. Casablanca.

THE COURT: Okay. Mr. DiBenedetto, good morning.

Ms. Casablanca, good morning to you.

Mr. DiBenedetto, are you also representing a second defendant?

MR. DiBENEDETTO: I am, Judge.

THE COURT: Let's come back to that; we'll put that on our agenda.

Next is Marco Minuto.

MR. LAWRENCE: Good morning, your Honor.

Kerry Lawrence, present with Marco Minuto.

THE COURT: Mr. Lawrence, good morning.

Mr. Minuto, good morning.

Next on the list is Paul Cassano.

MR. BELL: Good morning, Judge.

James Bell for Mr. Cassano, who's standing to my right.

THE COURT: I don't think I have an appearance from you, at least on my docket sheet, for Mr. Cassano.

MR. BELL: I believe I did, but I'll double-check that too right before I go.

THE COURT: Okay.

You're retained?

MR. BELL: No.

THE COURT: CJA?

MR. BELL: Yes, sir.

THE COURT: My docket sheet is as of yesterday; it doesn't have any counsel of record for Mr. Cassano.

MR. BELL: I'll resolve it.

THE COURT: Okay. Thanks.

Good morning.

DEFENDANT CASSANO: Good morning.

THE COURT: Next we have Daniel Marino, Jr.

MR. GINSBERG: Good morning, your Honor.

Seth Ginsberg for Mr. Marino, who's here with me in court today.

THE COURT: Okay. Mr. Ginsberg and Mr. Marino, good morning.

DEFENDANT MARINO: Good morning.

THE COURT: Next is John Lembo.

MR. BRILL: Judge, good morning.

I'm standing in for Avrom Robin, who I believe sent you correspondence.

THE COURT: He did. Mr. Robin, I excused his appearance; he indicated you'd be standing up --

MR. BRILL: I'm Steven Brill for Mr. Lembo.

THE COURT: Okay. Mr. Lembo is?

MR. BRILL: He's in the jury box.

THE COURT: Okay.

Mr. Lembo, you understand that your lawyer is Mr. Robin. He was unable to make it today. With this many defendants and this many lawyers, it was bound to happen in August that a couple of people couldn't make it. So Mr. Brill has graciously agreed to stand up for purposes of just this conference. Mr. Robin will get a transcript and he'll know what went on. Okay?

Good morning. Thanks.

MR. BRILL: Thank you, your Honor.

THE COURT: Thank you.
Next we have Mitchell Fusco.
MR. DONALDSON: Xavier R. Donaldson.
Good morning, your Honor.
THE COURT: Is it Fusco or Fusco?
DEFENDANT FUSCO: Either one.
THE COURT: Well, come on.
DEFENDANT FUSCO: Fusco.
THE COURT: Fusco.
Mr. Fusco, okay.
Mr. Donaldson, good morning to you. Thank you.
MR. DONALDSON: Good morning.
THE COURT: Next is Reynold Alberti.
MR. OKSENHENDLER: Good morning, your Honor.
Guy Oksenhendler for Mr. Alberti.
THE COURT: Okay. Mr. Alberti, good morning.
Mr. Oksenhendler, good morning to you.
Next we have Vincent Terracciano.
MR. BRILL: Steven Brill for Mr. Terracciano.
I am assigned officially to Mr. Terracciano.
THE COURT: Yes.
And it's Terracciano?
MR. BRILL: Terracciano.
THE COURT: Terracciano. Okay. Mr. Terracciano.
All right. Next is Joseph Tomanelli.

MR. DE CASTRO: Good morning, Judge.
Cesar De Castro for Mr. Tomanelli.
THE COURT: Okay.
Mr. Tomanelli, good morning.
Mr. De Castro, good morning to you.
Then we have Agostino Camacho.
MR. LEE: Good morning, your Honor.
Winston Lee for Mr. Camacho, who is standing to my left.
THE COURT: Yes. All right.
Mr. Camacho, good morning.
Mr. Lee, good morning to you.
Next we have Nicholas DeVito.
MR. BRILL: Yes, Judge.
Again, standing in for the attorney of record, Ezra Spilke, again, with your permission. We've also spoken to Mr. DeVito; he consents to my appearance for today.
THE COURT: Okay.
So you understand that, Mr. DeVito?
DEFENDANT DeVITO: I do.
THE COURT: Great.
Good morning to you.
Mr. Brill, thank you again.
MR. BRILL: Thank you.
THE COURT: Next we have Anthony Cassetta.

MR. CASALE: Good morning, your Honor.

John Casale appearing for --

THE COURT: You're far away. Could you speak a little louder?

MR. CASALE: Sorry.

John Casale appearing.

Mr. Cassetta is here, although his appearance was waived; it was a timing thing from yesterday.

I am respectfully moving to be admitted pro hac vice.

THE COURT: Okay. Let's do this: For today's purposes, I will admit you *pro hac vice*. You'll still need to do the paperwork going forward; so do that as soon as you can, okay?

MR. CASALE: I will.

THE COURT: All right.

Mr. Cassetta, good morning to you.

MR. CASALE: Thank you, Judge.

THE COURT: I saw you folks in my courtroom across the street, so hopefully everybody knows to be here. So far we're batting 1,000, so that's good.

All right. Next is Nicholas Vuolo.

MR. LIND: Good morning, Judge.

Richard Lind for Nicholas Vuolo, who stood up next to me.

THE COURT: Yes. Okay.

Mr. Vuolo, am I pronouncing your name right?

DEFENDANT VUOLO: Excuse me?

THE COURT: Am I pronouncing your name correctly?

DEFENDANT VUOLO: Yes.

THE COURT: Vuolo?

DEFENDANT VUOLO: Yes.

THE COURT: Mr. Lind I know.

Good morning to each of you.

Then we have Bradford Wedra.

DEFENDANT WEDRA: Good morning, your Honor.

Make it a wonderful morning and dismiss the case.

THE COURT: Well, I'm not sure that's in the cards, but am I pronouncing your name correctly, Mr. Wedra?

DEFENDANT WEDRA: Yes.

THE COURT: Your counsel?

MR. STAMPUR: William J. Stampur for Mr. Wedra, standing in for Michael Sporn, who's not here today, your Honor.

THE COURT: All right. Mr. Stampur, thank you.

Mr. Wedra, you understand that Mr. Sporn is your lawyer; and for today's purposes only, Mr. Stampur is just standing in for you. Mr. Sporn will get a transcript of the proceeding and he'll follow up with you. Okay? Thanks.

Next we have Michael Poli.

MR. MARINACCIO: Good morning, your Honor.

Michael Marinaccio for Mr. Poli, who is here.
THE COURT: Okay. Mr. Marinaccio and Mr. Poli.
Is it Poli?
DEFENDANT POLI: Poli.
THE COURT: All right. Good morning to you. Thanks.
MR. MARINACCIO: Good morning, Judge.
THE COURT: Then we have Pasquale Capolongo.
MR. RASKIN: Good morning, your Honor.
Martin Raskin on behalf of Mr. Capolongo, who's with me in court.
THE COURT: Yes. Okay.
Mr. Raskin, Mr. Capolongo, good morning to you.
Thanks.
Next we have Anthony DePalma.
MR. KALEY: Good morning, your Honor.
John Kaley for Mr. DePalma, standing to my left.
THE COURT: All right.
Mr. DePalma, good morning.
Mr. Kaley, good morning. Nice to see you.
MR. KALEY: Good morning, your Honor.
THE COURT: We should make it an admission at this point, but let's keep going.
John Tognino -- Tognino -- Tognino, is that it?
MR. MERINGOLO: Yes, your Honor.
Good morning, your Honor.

John Meringolo for Mr. Tognino.

THE COURT: Okay, Mr. Meringolo, I know how to pronounce your name.

And is it -- pronounce your name for me, Mr. Tognino.

DEFENDANT TOGNINO: Tognino.

THE COURT: Tognino. Okay. You pronounce the "G."

DEFENDANT TOGNINO: Yes.

THE COURT: Good morning to you. Thanks.

Next we have Mark Maiuzzo.

MR. STAMPUR: William J. Stampur for Mr. Maiuzzo, Judge. He just stood up.

THE COURT: Yes. Okay.

Mr. Maiuzzo, good morning.

Am I pronouncing your name right?

DEFENDANT MAIUZZO: Yup.

THE COURT: Okay.

And Mr. Stampur, good to see you. Thanks.

Next we have Joseph DiMarco.

MR. OKSENHENDLER: Good morning, your Honor.

Standing in for Mr. Dunn, who's the attorney of record --

THE COURT: Mr. Dunn had written requesting permission to not appear today because of a conflict. Mr. Oksenhendler, I've granted you the opportunity to stand up in his stead.

So Mr. DiMarco, you understand that?

DEFENDANT DiMARCO: Yes, your Honor.

THE COURT: Okay. Good morning to you.

MR. OKSENHENDLER: Thank you, Judge.

THE COURT: Thank you.

Next we have Harold Thomas.

Okay. Mr. Thomas, good morning.

And Mr. DiGiansante, am I pronouncing that right?

MR. DiGIANSANTE: DiGiansante, your Honor.

THE COURT: DiGiansante.

Good morning to each of you.

Then I have Richard LaCava.

MS. BARRETT: Good morning, your Honor.

Jean Barrett on behalf of Mr. LaCava, who is to my left.

THE COURT: Okay. Ms. Barrett. I don't have, at least on my docket sheet, that you filed a notice of appearance. So let's just make sure the docket sheet is correct, okay?

MS. BARRETT: Yes, your Honor.

THE COURT: Thank you.

Mr. LaCava, good morning to you.

Next we have Vincent Thomas.

MR. GIOFFRE: Yes, your Honor.

Bruno Gioffre for Vincent Thomas, who's standing next to me.

Good morning, your Honor.

THE COURT: Great.

Mr. Thomas, good afternoon.

Mr. Gioffre, good morning. Good morning. We're almost afternoon, but not quite.

All right. Then Anthony Camisa is not --

MS. KURLAND: Correct, your Honor. He's a fugitive.

THE COURT: Okay.

Then I have Frank Trapani.

MR. SCHMIDT: Good morning, your Honor.

Sam Schmidt for Mr. Trapani. You have the financial affidavit that was presented.

THE COURT: Okay. So I have it here.

So Mr. Trapani, you filled out a financial affidavit; is that correct?

DEFENDANT TRAPANI: Yes.

THE COURT: Do you swear that the contents of that affidavit are true and accurate to the best of your knowledge?

DEFENDANT TRAPANI: Yes.

THE COURT: All right.

Based on that, I will appoint counsel for you.

So I guess just file a notice of appearance.

MR. SCHMIDT: Very good.

THE COURT: Let me just make sure I've got it.

Okay. I've got that. Mr. Schmidt, thank you.

Next we have Anthony Cirillo.

MR. DiBENEDETTO: Hello again, Judge.

Joseph DiBenedetto for Anthony Cirillo.

THE COURT: Okay.

Mr. Cirillo, good morning.

Mr. DiBenedetto, again, good morning to you. Thank you.

We have Carmine Gallo.

MR. ALBER: Good morning, your Honor.

For Mr. Gallo, Michael Alber.

Judge, we will be filing our notice of appearance later today.

THE COURT: Okay. So Eric Sharp had been counsel of record; you're replacing him?

MR. ALBER: Yes, your Honor.

THE COURT: Okay. So yes. So that's Mr. --

MR. ALBER: Alber, A-L-B-E-R.

THE COURT: Okay. So Mr. Alber, you'll file that notice today.

MR. ALBER: Thank you.

THE COURT: Thank you very much.

Then we have Joseph Falco.

Good morning, your Honor.

Brad Henry for Mr. Falco, standing to my left.

THE COURT: Okay. Mr. Falco, good morning.

Mr. Henry, good morning to you. Thank you.

Next I have Francesco DePergola.

MR. TOMAO: Good morning, your Honor.

Peter Tomao on behalf of Francesco DePergola. Mr. DePergola is standing to my left.

I filed a notice of appearance about half an hour ago.

THE COURT: Okay. Good. That's all right. I haven't seen that yet, but I assume that's in order, so good morning to each of you. Thank you.

Then we have Ralph Santaniello.

MR. MARRONE: Good morning, your Honor.

For Mr. Santaniello, Gerard Marrone, M-A-R-R-O-N-E.

My understanding is Mr. Santaniello is still incarcerated in Massachusetts.

THE COURT: I think that's right. He's going to be produced here at some point? That's the plan.

MS. KURLAND: Yes, your Honor.

THE COURT: So when he gets here, we'll bring you back here for a private conference.

MR. MARRONE: He would have to be arraigned as well, Judge.

THE COURT: Exactly.

Okay. Great. Thank you.

Then we have Laurence Keith Allen, who's also a fugitive; is that correct?

MS. KURLAND: Correct, your Honor.

THE COURT: Then we have Bradley Sirkin.

MR. FROCCARO: Hi, Judge.

James Froccaro for Mr. Sirkin, who is here.

THE COURT: Okay.

Mr. Froccaro and Mr. Sirkin, good morning to you. Thank you.

I have Wayne Kreisberg.

MR. MILANO: Joseph Milano for Wayne Kreisberg, who's standing next to me.

Good morning, your Honor.

THE COURT: Mr. Kreisberg, good morning.

Mr. Milano, have you filed a notice of appearance?

MR. MILANO: I have not yet, your Honor.

THE COURT: Let's do that today, if you can, all right?

MR. MILANO: Yes.

THE COURT: Great. Thank you.

All right. Have I left out any defendants?

MR. REINHART: Yes, your Honor. I apologize.

Craig Bagon is the defendant, your Honor. Mr. Bagon is the third-to-the-last person on the list.

THE COURT: Oh, I did, I missed it. Mr. Bagon.

MR. REINHART: Yes, your Honor. Good morning.

Bruce Reinhart, it's R-E-I-N-H-A-R-T, appearing for

Mr. Bagon to my left.

Your Honor, I'll be filing a motion to be admitted *pro hac vice* as soon as I get CM/ECF clearance.

THE COURT: Okay. So let's do that right away.

Mr. Bagon, I apologize for skipping you on the page here.

Okay. Good morning.

And that's everybody, I think.

All right. Let me then take appearances from the government.

MS. KRAMER: Good morning, your Honor.

Appearing for the government, AUSA Amanda Kramer.

MS. KURLAND: Abigail Kurland.

MR. REBOLD: Jonathan Rebold.

MS. ABINANTI: Lauren Abinanti. I am a Special United States Attorney, Westchester County District Attorney's Office, Assistant District Attorney.

THE COURT: Okay. Thank you.

Are you on the docket sheet?

MS. KRAMER: Your Honor, she's not yet. Ms. Abinanti is awaiting her certificate of good standing in order to apply for admission in this district.

THE COURT: So let's do that right away.

MS. ABINANTI: I will. Thank you.

MS. KURLAND: We're joined by a paralegal in our office, Chloe Marmet, and a special agent with the FBI, Joy Adam.

MS. KRAMER: Good morning, your Honor.

THE COURT: Good morning to each of you, if it still is morning.

All right. This is a large case, it goes without saying, which creates some complications, but we'll try to make sure that this moves as smoothly as humanly possible. So far I think we're off to a reasonably good start.

Now, there are a number of defendants who have not been formally arraigned on the indictment is my understanding; so I think that's probably where we ought to start.

So I think that there are eight, by my count, who have not yet been arraigned; is that correct, Ms. Kurland?

MS. KURLAND: That is correct.

THE COURT: Okay. So I'll just take them one at a time.

We'll start with Mr. Merlino. Mr. Merlino.

You can even stay where you are, but wherever is comfortable.

MR. JACOBS: We'll stay.

THE COURT: That's fine.

Mr. Merlino, have you seen a copy of the indictment in this case?

DEFENDANT MERLINO: Yes, your Honor.

THE COURT: And you've read it?

DEFENDANT MERLINO: Yes.

THE COURT: You've discussed it with your attorney?

DEFENDANT MERLINO: Yes.

THE COURT: Do you have any questions about it?

DEFENDANT MERLINO: No.

THE COURT: Do you want me to read it aloud here in this open courtroom?

DEFENDANT MERLINO: No, not at all.

THE COURT: Are you prepared to enter a plea of guilty or not guilty at this time?

DEFENDANT MERLINO: Not guilty.

THE COURT: Not guilty.

Okay. Thank you very much.

DEFENDANT MERLINO: Thank you.

THE COURT: Next we have Mr. Gallo.

Mr. Gallo, have you seen a copy of the indictment in this case?

DEFENDANT GALLO: Yes. Your Honor.

THE COURT: You've reviewed it and read it?

DEFENDANT GALLO: Yes, your Honor.

THE COURT: You've discussed it with your attorney?

DEFENDANT GALLO: Yes, your Honor.

THE COURT: Do you have any questions about it?

DEFENDANT GALLO: No.

THE COURT: Would you like me to read it out loud here today?

DEFENDANT GALLO: No.

THE COURT: What's your plea, guilty or not guilty, to the charges contained in the indictment?

DEFENDANT GALLO: Not guilty.

THE COURT: Not guilty.

All right. Thank you. Please have a seat.

Then we have Mr. Sirkin.

Mr. Sirkin, you've seen a copy of the indictment?

DEFENDANT SIRKIN: Yes, your Honor.

THE COURT: You've discussed it with your attorney, Mr. Froccaro?

DEFENDANT SIRKIN: Yes, your Honor.

THE COURT: You've read it yourself?

DEFENDANT SIRKIN: Yes, I have.

THE COURT: Do you have any questions about it?

DEFENDANT SIRKIN: None at all.

THE COURT: Would you like me to read it out loud here in court?

DEFENDANT SIRKIN: No.

THE COURT: I'm glad you said that.

What's your plea, guilty or not guilty?

DEFENDANT SIRKIN: Not guilty.

THE COURT: Not guilty.

All right. Thank you.

Then we have Mr. Kreisberg.

Mr. Kreisberg, you've seen a copy of the indictment?

DEFENDANT KREISBERG: I have.

THE COURT: You've discussed it with your attorney, Mr. Milano?

DEFENDANT KREISBERG: Yes.

THE COURT: You've read it yourself?

DEFENDANT KREISBERG: Yes.

THE COURT: Would you like me to read it out loud here in court?

DEFENDANT KREISBERG: No.

THE COURT: Do you have any questions about it?

DEFENDANT KREISBERG: No.

THE COURT: What's your plea, guilty or not guilty?

DEFENDANT KREISBERG: Not guilty.

THE COURT: All right. Thank you.

Then we have Mr. Capolongo.

Mr. Capolongo, same drill, but, look, this is important. This is a formal proceeding; it's a formal entry of a plea to the charges against you.

So you've seen a copy of the indictment?

DEFENDANT CAPOLONGO: Yes.

THE COURT: You've discussed it with your attorney?

DEFENDANT CAPOLONGO: Yes.

THE COURT: You've read it yourself?

DEFENDANT CAPOLONGO: Yes.

THE COURT: Do you have any questions about it?

DEFENDANT CAPOLONGO: No.

THE COURT: Do you want me to read it out loud?

DEFENDANT CAPOLONGO: No.

THE COURT: What's your plea, guilty or not guilty?

DEFENDANT CAPOLONGO: Not guilty.

THE COURT: Not guilty. Thank you.

Then we have Mr. Trapani.

Mr. Trapani, you've seen a copy of the indictment?

DEFENDANT TRAPANI: Yes.

THE COURT: Have you read it yourself?

DEFENDANT TRAPANI: Yes.

THE COURT: You discussed it with Mr. Schmidt?

DEFENDANT TRAPANI: Yes.

THE COURT: Would you like me to read it out loud here in court?

DEFENDANT TRAPANI: No.

THE COURT: No. Okay.

Do you have any questions about the indictment?

DEFENDANT TRAPANI: No.

THE COURT: What's your plea, guilty or not guilty?

DEFENDANT TRAPANI: Not guilty.

THE COURT: Not guilty.

All right. Thank you.
Then we have Mr. Bagon.
Mr. Bagon, same question: You've seen a copy of the indictment?
DEFENDANT BAGON: Yes.
THE COURT: You discussed it with your attorney, Mr. Reinhart?
DEFENDANT BAGON: Yes.
THE COURT: You've read it yourself?
DEFENDANT BAGON: Yes.
THE COURT: Do you have any questions about it?
DEFENDANT BAGON: No, thank you.
THE COURT: Would you like me to read it out loud?
DEFENDANT BAGON: No, thank you.
THE COURT: What's your plea, guilty or not guilty?
DEFENDANT BAGON: Not guilty.
THE COURT: Not guilty.
And finally, Mr. DePergola.
Mr. DePergola, you've seen a copy of the indictment?
DEFENDANT DePERGOLA: Yes.
THE COURT: You've read it yourself?
DEFENDANT DePERGOLA: Yes.
THE COURT: You've discussed it with your attorney?
DEFENDANT DePERGOLA: Yes, I have.
THE COURT: Would you like me to read it out loud?

DEFENDANT DePERGOLA: No.

THE COURT: Do you have any questions about the indictment?

DEFENDANT DePERGOLA: No.

THE COURT: What's your plea, guilty or not guilty?

DEFENDANT DePERGOLA: Not guilty.

THE COURT: Okay. Thank you.

All right. So, I think, now every defendant has been arraigned formally on the charges; each has entered a plea of not guilty.

So a couple of counsel are going to have to file appearances; some will have to file motions to appear *pro hac vice*, you know who you are, so please do that.

Was there something you wanted to say, Ms. London?

MS. LONDON: Yes, your Honor.

Could we verify that Mr. Ianniello was arraigned? It was my understanding that he might have to be arraigned.

THE COURT: On my cheat sheet I had only those eight as people who needed to be arraigned, but I could be wrong.

Government?

MS. KRAMER: Your Honor, I believe he was arraigned at his presentment, as was our practice, because your Honor referred all of them for arraignment as well.

THE COURT: Yes.

MS. KRAMER: We can certainly double-check.

THE COURT: Ms. London?

MS. LONDON: Your Honor, I believe that he was arraigned. Ms. Scolari had notified me that he might need to be arraigned, but my understanding --

THE COURT: Mr. Ianniello, you think you entered a formal plea of guilty or not guilty?

DEFENDANT IANNIELLO: Yes, I was arraigned last Wednesday.

THE COURT: You pled not guilty?

DEFENDANT IANNIELLO: In fact, Ms. Kramer was there.

MS. KRAMER: Yes, I believe that is the case, your Honor.

THE COURT: I think that's reflected on the docket sheet. I can't put my finger on it right now, but I think that's the case.

MS. LONDON: Thank you, your Honor.

THE COURT: All right. Thank you.

MS. LONDON: I'm sorry.

THE COURT: The next thing we're here really to talk about is the discovery in this case.

As I think most of you know, you've discussed it with your attorneys, you're entitled to at least some of the evidence that's been gathered against you by the Federal Rules of Criminal Procedure. So the government has to produce those things to you and to your attorneys so that you can review it and prepare your defense and perhaps make motions. So that process can be long or short, depending on the type of case. It sounds like, from what the government has described for me in a letter that they sent to me and that counsel has seen, there is a fairly voluminous amount of discovery, which is not surprising perhaps in a case with this many defendants.

So what the government has proposed is that we proceed with discovery in two stages, what they originally called phase 1, would be 45 days from, I guess, last week, and that would consist of certain materials that have already been produced, at least some of it's already been produced; is that right, Ms. Kurland?

MS. KURLAND: Yes, your Honor. We began producing discovery to individual defendants last week. This included --

THE COURT: Could you use the microphone over here or use that one there. I think it's such a cavernous room that we want to make sure that we can hear you.

MS. KURLAND: Certainly.

THE COURT: That's better. Oh, that's good. That's great.

MS. KURLAND: The government began producing discovery last week pursuant to the Court's order. This included criminal history reports, arrest reports, when they were completed, and a sampling of consensual recordings for the defendants who we have signed draft summary stipulations for.

That encompassed approximately 35 individuals out of the 46. We're going to continue to do that today, once we get the remaining draft stipulations signed, and then we'll continue doing discovery on a rolling basis.

But that's separate and apart from the bulk of the discovery that I believe my colleague Ms. Lonergan was speaking to Mr. Nooter about regarding a discovery coordinator.

THE COURT: Okay. So that's one of the things that we had talked about.

But for phase 1, some of it's being produced and the discovery coordinator is going to be required for phase 1, as well; correct?

MS. KURLAND: Yes, because a bulk of discovery for phase 1 is incredibly voluminous and includes electronic media; so I think a discovery coordinator would really help smooth the process to ensure that everything we have gets smoothly to defense counsel and that they are able to access it.

THE COURT: Look, for cases of this magnitude, it's not uncommon to have a discovery coordinator. I think it's a wise policy. I assume no one is opposed to that; if so, I'd love to hear about it.

MR. NOOTER: Your Honor, Thomas Nooter.

THE COURT: You're opposed to it, Mr. Nooter?

MR. NOOTER: No, I'm not.

I was contacted by the government as someone to sort of organize it on behalf of defense counsel. I haven't actually sought the consent of all my colleagues on that, so if anyone has an objection or would rather do it, they should let me know.

But there are apparently some requirements that have to be met for the federal defender services organization to pay for a discovery coordinator for the CJA counsel involved and who can also assist with coordinating stuff for private counsel, but they have to provide some of their own media, for example, their own hard drives.

I have been in contact with one lawyer who is such a discovery coordinator and have obtained the requirements from him. I'm going to reach out to co-counsel now that it's becoming clear who they are; it wasn't totally clear up till today.

THE COURT: Right.

MR. NOOTER: I have to determine how many are appointed counsel, how many are private, and if anybody objects to using a discovery coordinator, and then we will -- I guess I will provide a proposal to the Court in detail on how it would work and ask for the appointment then of this law firm, which is an independent discovery coordinator law firm, on behalf of all counsel.

THE COURT: Okay. I think that makes sense.

Does anybody have any other ideas or anybody have any objections to doing it that way? I think that will make for the most efficient production of discovery in this case.

So, Mr. Nooter, thanks for volunteering or accepting the draft of being the point person among counsel in this case.

How long do you think it will take you to get to the point where we're in a position to appoint a discovery coordinator?

MR. NOOTER: Perhaps a week. I just need to make sure who the counsel all are, to contact them, to do kind of a poll of them, and then I'll be able to provide the proposal. It might be less time.

THE COURT: Okay.

The proposal will come to me --

MR. NOOTER: Yes.

THE COURT: -- or it goes through CJA? Comes to me. I think it comes to me.

MR. NOOTER: I'll have to check the order, but I'm sure your Honor will see it.

THE COURT: Okay.

So if I give you a week from Friday to make a proposal, that should be enough time. If you can do it sooner, even better.

MR. NOOTER: Yes, that would be fine.

THE COURT: Okay. Terrific. That sounds good.

MS. KRAMER: Your Honor, one more brief point on the subject of individual discovery.

While everybody is gathered, we do have blank draft transcript stipulations to be signed by any defendants who have not yet signed it, which will allow us to then produce summaries of the recordings.

The ones who are outstanding are for defendants Bagon, DePergola, Ianniello, Kreisberg, Poli, Santaniello, and Sirkin.

To the extent that all but one of those defendants have counsel here, if we could convene after this conference to get those signed, that will allow us to produce discovery faster to those defendants.

Thank you.

THE COURT: All right. So let's do that. The draft transcript stipulations are generally a prerequisite to getting the drafts, which is in everybody's interest to get them sooner. So usually that's a pretty pro forma act, so let's try to do that. I'll give you time before we break to do that.

All right. So with respect to discovery, what was proposed is that we get together in about 45 days or 45 days, I guess, from when I order the phase 1 discovery to start. But if we don't appoint a discovery coordinator for another week or so, does that affect the timetable that the government had proposed?

MS. KURLAND: Judge, I believe you had asked for a conference at four months from the order. That way, counsel has had a chance to -- we've had a chance to produce discovery, counsel has had a chance to review it.

THE COURT: I thought the plan was to have phase 1 discovery, and then bring everybody in here one more time just to see how we're doing, with phase 2 discovery to continue. We wouldn't be done with discovery. That's the way I thought that the plan was to proceed.

MS. KURLAND: That's fine with the government.

THE COURT: So phase 1 would be completed by when? Middle of October, you're thinking?

MS. KRAMER: I think that's right, your Honor. On or around October 10th would be the 45-day mark.

THE COURT: Okay.

And then counsel presumably would be getting this on a rolling basis, but the final production for phase 1 will be by October 10th or so. The last things produced may take a little time to look at, I'm not sure. That will include transcripts and things like that?

MS. KRAMER: Yes, your Honor.

THE COURT: Yes.

So I'm thinking when we ought to schedule another conference just to sort of take the pulse, see how we're doing. I think that there are some advantages to doing that, but some disadvantages because it's quite a production. But I don't ever like to go six months without having everybody back in court.

So I was thinking sort of mid to late October to have another conference to see how we're doing, discuss whether there are any motions that people know they want to make at that point. Mr. Meringolo has already filed a motion. That was the land speed record for a motion. You made the *Post*, I think, too.

Anyway, we'll talk about that in a minute. But, generally, I'd want to have motions made in a more orderly fashion on a schedule, probably after at least the completion of phase 1 discovery, that would be my thinking, to do this in an orderly way.

So if I brought you back here the week of the 17th of October, will we have something to talk about?

MS. KRAMER: That's fine with the government, your Honor. I think there are some defendants who will probably have some motions to discuss at that time, and there may be a large number of defendants who are still in the process of reviewing discovery, but that date works for the government, your Honor.

THE COURT: Okay.

Counsel, I guess I'm going to appoint Mr. Nooter to be the spokesman for everybody. He's not, I understand that, but just, Mr. Nooter, do you have any thoughts about doing this -- having a next conference in a month and-a-half?

MR. NOOTER: My only thought is my guess is given the volume, that most of us will not have thoroughly reviewed even phase 1 in order to give an idea of what motions we should make. But at the same time, I think it doesn't hurt to have a conference, as your Honor said, to see where we are.

THE COURT: I think that we should do that, particularly since I have people who are in custody. I never want people in custody to feel like we're all just kind of biding our time and sort of strolling through the process. We have an obligation to go quickly, and I think everybody is determined to do that; but I don't ever want a defendant, particularly one in custody, to think that this couldn't be going faster. I don't want them thinking that it could be going faster and isn't.

So I'm going to do that. I'm going to schedule something, I think, at the end of October.

So this is not my courtroom. Do we have a schedule for when we might be free to do this?

Does anyone have any problems with doing this on Halloween? Do it in the morning, so you can go trick-or-treating or have kids, things like that. Halloween is a big deal, I get that. But I think that might be the most advantageous time.

Do you have a problem with Halloween?

MS. KURLAND: I don't, but I just know that there's a number of out-of-state defendants.

THE COURT: Let's do this: I want to make it very clear that if it's going to be a nonevent for certain defendants and they wish to waive an appearance, they can certainly make that request. For out-of-state defendants who wish to appear telephonically, through video teleconference, we can arrange that sometimes. It might be trickier if it's half a dozen who want to do that, but if it's one or two, we might be able to do that.

But if it's a situation where there's really not much to say, you don't know what motions you want to make, still going through discovery, I would consider waiving appearance. I just don't want to say, I'll see you in March. I just don't think that's the best way to do this.

So if I schedule this for Halloween at, say, 11 o'clock, we'd be done by lunchtime, and then people could get back on with their lives. People who don't wish to be here for whatever reason can make a written request indicating why it's not necessary for them to be here, and that they voluntarily waive an appearance, and I'd be open to that. In the interim, if there are other issues that need to be resolved, we can also deal with that by letter. But that's what I'm inclined to do.

Mr. Schmidt.

MR. SCHMIDT: Your Honor, I expect to be on trial at that time. Obviously I'll make arrangements with someone to cover.

THE COURT: With this many defense counsel, I could pick a date five years from now and I guarantee you somebody will have a conflict, that's just the nature of it. Occasionally, lawyers will have to help out and step in for purposes of an appearance. It's not unusual; it happens all the time; it happens in cases involving three defendants. Certainly with this many defendants it's going to be more likely that it will happen from time to time, but that's not the end of the world. We'll make sure that counsel of record get the transcript and follow up with their clients.

All right. So let's do that. October 31st at 11 a.m.

In the meantime, I will have appointed a discovery coordinator. If there are other issues that come up between now and then, we can deal with those by letter. Okay?

Mr. Brill.

MR. BRILL: Yes. Steven Brill for Mr. Terracciano.

Would the Court permit me just to question a detail of the government's discovery with respect to the wiretap material and the consensual recordings? I know there has been mention of draft transcripts and then summaries. My question is should we all expect transcripts and/or summaries of each of those recordings or just a portion that the government picks and chooses which ones?

THE COURT: You mean are you going to get the greatest hits that just pertains to your client or are you going to get summaries for all the calls involving all defendants?

MR. BRILL: Correct. That's the question.

THE COURT: Okay.

MS. KRAMER: Your Honor, the government intends to produce all summaries of recordings that are in our possession. So there were some recordings at various points in time that were not summarized. That is the rare exception. The vast, vast majority of the consensual recordings have summaries, and obviously the wiretap recordings have line sheets, and those will all be produced.

THE COURT: All right.

Then will you also endeavor -- I think it's probably efficient, I'm not going to order you to do it, but it might be wise to provide a list to counsel, perhaps this is -- don't hold me to it, this may not be every call you're intercepted on, but these are the highlights where you should focus your time. That's sometimes a good way to make sure that counsel and client is able to get to the nub of the matter quickly.

MS. KURLAND: Judge, we have already started doing that. Considering the volume of discovery, over 800 consensual recordings and phone calls and 15 wires, that's efficient for both us and for defense counsel and will hopefully sharpen their defense and lead to resolutions in this case. So we are going to do that on an individual basis.

THE COURT: That's not unusual; that's the way wiretaps often work, with the understanding that there may be some where a voice who's not identified correctly, at least at first, and those things happen. But the greatest hits can be helpful.

MS. KURLAND: Absolutely.

THE COURT: All right. So that's discovery.

Yes. Go ahead. Mr. Faga, we'll start with you.

MR. FAGA: Your Honor, if I can get an understanding, what will be phase 1 and what will be phase 2?

THE COURT: The letter that was sent to me is docketed, right? It was sent to all counsel?

MS. KURLAND: Yes.

THE COURT: So I think it's laid out in there.

MS. KRAMER: Sorry, your Honor, may we have a moment please?

THE COURT: Yes.

I have the letter. It's an August 5th letter. What I don't have is my glasses.

Have you seen the letter though, Mr. Faga?

MR. FAGA: Yes, your Honor.

MS. KRAMER: Your Honor, may I direct defense counsel to page 4, footnote 3, which indicates that phase 1 will include individual discovery, all wiretap materials and recordings, all consensual recordings, and all search warrant applications and returns completed as of that date. Then the remainder of the items listed in the letter will be in phase 2.

MR. FAGA: Thank you.

THE COURT: Okay.

Mr. Kluger.

MR. KLUGER: Matt Kluger for Israel Torres.

Judge, has the government given any thought to how they are going to or if they are going to produce discovery for the gentlemen who are incarcerated to be able to review? Usually the government produces that to the Department of Corrections for their review. I haven't heard any mention of it, so I'm just wondering if the government had given any thought to that. Certainly we would want that to happen.

THE COURT: Absolutely. I'm sure they've given thought to it. It should be the case that defendants who are in custody are getting access to the materials at the MCC or the MDC.

MS. KRAMER: That has not happened yet, your Honor. That is one service that is performed by the discovery coordinator, who will hopefully be appointed in this case. And they or he will reach out to the facilities where the defendants are housed, make everything available, and make sure it's accessible. So that has not happened yet, but it will happen as soon as we have someone in place.

THE COURT: Look, it's not like we have dozens and dozens of people in custody; it's not a huge number. So probably they are anxious to get something. So it may be that you could start sending stuff over to the MCC and MDC before we have a discovery coordinator. But if we get a coordinator in a couple of days, then problem solved. I want to make sure that they get access to these materials so they can review these with their counsel.

MS. KRAMER: Your Honor, the government is happy to send to the facilities the individual discovery that has been produced or will be produced in the next few days so that defendants who are in custody can start reviewing it.

THE COURT: Good. Okay. That gives you guys something to at least start with. Okay?

Good point, Mr. Kluger. Thank you again.

Mr. Faga?

MR. FAGA: With relation to the defendants in custody, I believe there are separation orders in place. It's already been rather difficult -- I've been turned away on at least three occasions from visiting my client. Certainly with reference to multiple people trying to get to a limited number of discovery items, these separation orders are going to make things even more cumbersome. If we could have a modification of those orders to allow for visitation and discovery review, I think that would be very helpful.

THE COURT: I don't know anything about separation orders; that's really something that's up to the Bureau of Prisons. But it should be the case, whether there are separations or not, defendants who are awaiting trial have an opportunity to review materials. I think they are unrelated and I think they shouldn't be linked.

If there's a problem of getting to visit the client, if there's a problem getting access to discovery by your client in a facility, let me know about it. Or maybe let the government know first, but let me know if it's a recurring problem.

MR. FAGA: Thank you.

THE COURT: All right. Anything else related to discovery?

So let's do that, then. We'll have another pulse check on October 31st.

Now, we've got a couple of -- at least two defendants -- excuse me, at least two lawyers who are representing multiple defendants, which is unusual. I don't know if it's unusual in a 46-defendant case, but it's unusual in most cases. But at least what was represented is that the government didn't have a problem with it.

MS. KURLAND: Judge, my understanding is that Ms. Lonergan spoke to Mr. DiBenedetto, Mr. DiGiansante, and said that as of now we're not aware at this point of any factual overlap regarding their clients, of course, so there's not a per se conflict. But we were certainly planning on submitting a *Curcio* letter to the Court about not just this, but some other *Curcio* issues that we've become aware of so we could have a *Curcio* hearing so the Court could determine moving forward.

THE COURT: Just for everybody's benefit, a *Curcio* hearing is basically a hearing at which the Court inquires of a defendant to make sure they understand of a conflict or a potential conflict. It's usually not the best idea to have one lawyer representing multiple defendants, candidly. There's a reason why it's unusual. But defendants are, within limits, entitled to counsel of their choice.

So I think I would like to have a hearing with respect to the four defendants at least I'm familiar with right now who have counsel that are representing more than one person. So I think we should do that. Let's not do that today while we've got a cast of thousands here; we'll do that on a separate date when we can deal with it at our leisure.

But the government is planning to make that motion anyway, then tee that up for me sooner rather than later.

MS. KURLAND: Yes, your Honor.

THE COURT: All right.

Somebody else who was standing that wanted to be heard on that point?

Yes.

MR. DiBENEDETTO: I was standing but --
THE COURT: Mr. DiBenedetto.
MR. DiBENEDETTO: I'm okay. Thank you.
THE COURT: All right.
Anything else that we need to cover today, Ms. Kurland?
MS. KURLAND: Judge, I spoke to Danny Ortiz in the clerk's office regarding the defendants who were arrested and presented out of district. Their bail needs to be set anew by the Court. And then they need to proceed down to the magistrate clerk's office where they can sign papers, depending on what the Court decides; and then we can give individual instructions to them how to proceed. But we're coordinating with the mag clerks to have it proceed smoothly.
THE COURT: Okay. So bail was set for I think it's eight or nine defendants who fall into that category you just discussed.
MS. KURLAND: Correct.
THE COURT: Bail was set out of the district. Nobody has asked me to amend or to modify or to -- nobody has sought to appeal them. There was one appeal in Florida which I already ruled on.
MS. KRAMER: That's correct, your Honor.
THE COURT: But otherwise I have not received any request to modify or change those conditions. So I've looked

at the conditions. I have no obvious problem with them. But I don't know as much as probably you do or as defense counsel does.

We're talking about Mr. Merlino, Mr. Gallo, Mr. Sirkin, Mr. Kreisberg, Mr. Capolongo, Mr. Trapani, Mr. Bagon, and Mr. DePergola; correct?

MS. KURLAND: Yes.

THE COURT: All right.

So the bail conditions were set by magistrate judges in different districts. Is there any motion to modify or amend those conditions?

I'll start with the government. The government has no such --

MS. KURLAND: No, your Honor, not from the government.

THE COURT: Okay.

MR. FROCCARO: Judge, James Froccaro for Mr. Sirkin.

Judge, he'll just need time to satisfy the condition. I'll need at least a week to satisfy the conditions. Two other people have signed the bond. I assume the clerk's office will fax it down to them. And he's also going to file a confession of judgment against a piece of property.

THE COURT: I can't hear you.

MR. FROCCARO: He's also going to file a confession of judgment against a piece of property. I'll need at least a week, Judge, if that's okay with the government and your Honor.

THE COURT: That's for what defendant?

MR. FROCCARO: Bradley Sirkin, your Honor.

THE COURT: I'm looking at that.

Was he given time in which to do all those things?

MR. FROCCARO: In Florida they live there, Judge; it's all done right down there. Everything that needed to be done was satisfied right then and there.

THE COURT: All right.

So what you're saying is the conditions set in Florida have to be modified to allow for cosigners and properties and the documents associated with those to be presented to the government.

MS. KRAMER: Your Honor, I don't think the conditions need to be modified; I think that when your Honor executes the order, the defendants just need to be given a week or so to satisfy those conditions. So the deadline by which they need to satisfy them needs to be set at a week out, and that's all.

MR. FROCCARO: That's exactly what I was asking for.

THE COURT: What's that?

MR. FROCCARO: That's exactly what I was asking for.

THE COURT: All right. A week would do it?

MR. FROCCARO: That would be great, Judge.

THE COURT: Okay. That's true for the other defendants as well?

MR. SCHMIDT: Your Honor, that's true for Mr. Trapani also.

I do have one amendment. I'd ask that we include the District of New Jersey as a location where he could stay when he comes up to New York for the court case.

THE COURT: Okay. So he's right now travel-restricted to Southern District of Florida and Southern and Eastern Districts of New York. You want to add the District of New Jersey?

MR. SCHMIDT: That is correct.

THE COURT: Any objection to that, Ms. Kramer?

MS. KRAMER: No, your Honor. In fact, I think there were a couple of out-of-district defendants who were permitted to travel in addition to the Southern and Eastern Districts of New York to Newark Airport. To the extent that that is added for all out-of-state defendants, it may make sense to do that so they don't inadvertently travel outside of the district they are permitted to be in.

THE COURT: Frequently the way we do it here is we say the points in between so they can travel. Technically, if they are flying over the District of Tennessee, they are out of the district.

MS. KRAMER: That's fine with the government, your Honor.

THE COURT: Okay.

But I think what you're talking about is he wants to reside in New Jersey for a day or two while he's up here for a court appearance, right?

MR. SCHMIDT: That is correct.

MS. KRAMER: No objection, your Honor.

THE COURT: That's fine.

All right.

MR. MILANO: Your Honor, for Mr. Kreisberg, I suspect we're going to need --

THE COURT: You want the same thing Mr. Schmidt just talked about?

MR. MILANO: I believe we're going to need that, a week for the conditions.

THE COURT: All right. I'll give each of the defendants a week to meet the conditions. Everybody ought to know they better not run or try to take off or mess around while they are on bail because I will have no tolerance for that at all. But I'm assuming everybody is acting in good faith and everybody is going to meet and comply with their conditions of bail and we are not going to have any problems, okay?

MR. TOMAO: Your Honor, Peter Tomao on behalf of Mr. DePergola.

All I'm asking is that the geographic limitations which were just to Massachusetts and come here to court, New York, just ask for the Eastern and Southern District of New

York as well.

THE COURT: Okay.

MR. TOMAO: Thank you.

THE COURT: Yes.

MR. JACOBS: May it please the Court, Ed Jacobs, representing Mr. Merlino.

May I ask for a small clarification for the Court. Defense counsel, after today's proceedings, some defense counsel, hope to meet together with their clients. And I'm just a little concerned that the bond condition which says my client was to avoid all contact with victims of or witnesses to the crimes charged except through counsel, then interlineated, plus codefendants, may be misinterpreted.

THE COURT: You want to have a codefendants meeting, is that what you're saying?

MR. JACOBS: Yes, I would, with counsel.

MS. KRAMER: Your Honor, the condition that was imposed for all of the defendants in this district -- maybe with one or two exceptions -- was that they are not to meet with codefendants outside the presence of counsel. So if the Court enters that condition with respect to Defendant Merlino, the government has no objection to that.

MR. JACOBS: That's fine, judge.

If less than all defense counsel are there, I assume that is okay also.

THE COURT: In other words, if there's two defense lawyers, but five defendants.

MR. JACOBS: Exactly.

THE COURT: You have no objection to that I presume.

Look, I'm not sure which defense lawyer would say, Hey, I don't need to be there, you go ahead. That wouldn't seem to be that wise.

MS. KURLAND: That seems to be getting a little bit in the weeds, but unless there's a joint defense that's talking to represented people --

THE COURT: Well, if a lawyer waives his appearance at a joint defense meeting and says to his client, Go, but don't say anything, you can listen, I don't know that that's a breach of the bail conditions. I'm not sure it would be wise, but I'm not sure it's a breach. You think it is?

MS. KURLAND: No.

THE COURT: Okay.

MS. KRAMER: Your Honor, as a technical matter, I think that the conditions for each of the defendants we're discussing right now who were arrested out of the district may actually need to be announced in court. So I'm happy to read through the conditions if your Honor would then like to confirm --

THE COURT: Well, they were announced in court in the districts where they were presented, right? I'm familiar with those and I'm affirming those, with a handful of modifications that we just talked about. You think that there's magic in saying it aloud?

MS. KURLAND: That's what Mr. Ortiz informed us this morning.

THE COURT: Really.

I can't just issue an order that memorializes these conditions?

MS. KURLAND: I'm just conveying the message from the magistrate clerk's office.

MS. KRAMER: Perhaps, your Honor, you could confirm with each of these defendants that they understand the conditions that you're imposing; and that they are the same as in other districts. That may satisfy the need of the magistrate clerk's office to ensure that each defendant has been advised by the Court of his conditions.

THE COURT: I think that would probably do it. I assume they signed the bond in the other district and they are going to sign a bond here, each of which will require that they swear that they understand the conditions and intend to abide by it. So I'm pleased to hear what Mr. Ortiz thinks and I have great respect for him, but -- I'll do this: Mr. Merlino, you got bailed down, where was it, Florida?

DEFENDANT MERLINO: Yes, sir.

THE COURT: You understood the conditions of that bail, right?

DEFENDANT MERLINO: Yes, your Honor.

THE COURT: Do you want me to recite the conditions again here in open court?

DEFENDANT MERLINO: No, your Honor.

THE COURT: You understood when you signed the bond, correct?

DEFENDANT MERLINO: Yes, sir.

THE COURT: I'm going to modify that just to give you some additional time to meet the conditions. I guess I'll let you travel to and through New Jersey, in addition to the restrictions that were previously entered.

DEFENDANT MERLINO: Thank you, your Honor.

THE COURT: You're going to comply with that, right?

DEFENDANT MERLINO: Yes.

THE COURT: Thank you.

Next we've got Mr. Gallo.

Mr. Gallo, you signed the bond. Where did you sign the bond?

DEFENDANT GALLO: In Florida.

THE COURT: In Florida.

At the time you signed it, you understood the conditions, right?

DEFENDANT GALLO: Yes.

THE COURT: The judge announced the conditions in court and you were there?

DEFENDANT GALLO: Yes.

THE COURT: Do you want me to recite them again?

DEFENDANT GALLO: No, your Honor.

THE COURT: You understand them, right?

DEFENDANT GALLO: Yes.

THE COURT: You're going to have to sign a bond that has the same conditions here, with a slight modification of timing and the travel restrictions that I just talked about.

Do you have any questions about that?

DEFENDANT GALLO: No, your Honor.

THE COURT: Okay. You agree and you swear, in fact, that you're going to comply with those conditions?

DEFENDANT GALLO: Yes, your Honor.

THE COURT: Okay. Thanks.

Next we have Mr. Sirkin.

Mr. Sirkin, same deal. Where were you presented, in Florida?

DEFENDANT SIRKIN: West Palm Beach, Florida.

THE COURT: At that time the judge set bail, right?

DEFENDANT SIRKIN: Yes.

THE COURT: You were there when he did it?

DEFENDANT SIRKIN: Yes.

THE COURT: You heard him announce the conditions?

DEFENDANT SIRKIN: Yes.

THE COURT: And you signed the bond that set forth the conditions, right?

DEFENDANT SIRKIN: Yes.

THE COURT: Same conditions are going to apply here with slight travel restrictions. I'll give you a week to comply with the conditions up here.

You're going to comply with those conditions, right?

DEFENDANT SIRKIN: Absolutely.

THE COURT: Do you want me to read it out loud?

DEFENDANT SIRKIN: No, sir.

THE COURT: Do you have any questions about those conditions?

DEFENDANT SIRKIN: No, sir.

THE COURT: Next we've got Mr. Kreisberg.

Mr. Kreisberg, where were you presented?

DEFENDANT KREISBERG: Florida.

THE COURT: Same deal. The judge announced the conditions of bail at that time; right?

DEFENDANT KREISBERG: Correct.

THE COURT: You understood it?

DEFENDANT KREISBERG: Yes.

THE COURT: And then you signed the bond that memorialized all the things the judge said, right?

DEFENDANT KREISBERG: Yes.

THE COURT: You read it before you signed it?

DEFENDANT KREISBERG: Yes, I did.

THE COURT: I'm going to impose the same conditions here, with the slight modifications I just mentioned.

Do you have any questions about that?

DEFENDANT KREISBERG: No, your Honor.

THE COURT: You intend to comply with those conditions, right?

DEFENDANT KREISBERG: Absolutely.

THE COURT: Great.

Okay. Next we have Mr. Capolongo.

Same deal. Mr. Capolongo, where were you, in Florida?

DEFENDANT CAPOLONGO: Florida.

THE COURT: At the time the judge announced the conditions in your presence, right?

DEFENDANT CAPOLONGO: Yes.

THE COURT: Then you signed the bond that laid out what the conditions were?

DEFENDANT CAPOLONGO: Correct.

THE COURT: Do you want me to read them again?

DEFENDANT CAPOLONGO: No.

THE COURT: You understand them?

DEFENDANT CAPOLONGO: Yes.

THE COURT: Okay. So you're going to comply with those conditions, right?

DEFENDANT CAPOLONGO: Yes.

THE COURT: Good. Thank you.

Mr. Trapani.

Mr. Trapani, where were you presented in Florida?

DEFENDANT TRAPANI: Boca.

THE COURT: Excuse me? In Boca okay.

And at the time you were presented, the judge set bail, right?

DEFENDANT TRAPANI: Yes.

THE COURT: You heard him announce the conditions of bail?

DEFENDANT TRAPANI: Yes.

THE COURT: And you ultimately signed the bond down there that set forth all the conditions of bail; correct?

DEFENDANT TRAPANI: Yes.

THE COURT: I'm going to impose the same conditions here, with a slight modification that Mr. Schmidt asked for.

You intend to comply with those conditions, right?

DEFENDANT TRAPANI: Yes.

THE COURT: Do you have any questions about them?

DEFENDANT TRAPANI: No.

THE COURT: Okay. All right.

Then we have Mr. Bagon.

Mr. Bagon, where were you presented?

DEFENDANT BAGON: Florida.

THE COURT: And at the time you were presented, the judge announced the conditions of bail, right?

DEFENDANT BAGON: Yes, sir.

THE COURT: You understood them?

DEFENDANT BAGON: Yes, sir.

THE COURT: And then you signed the bond that memorialized what those conditions were?

DEFENDANT BAGON: Yes, sir.

THE COURT: Do you want me to recite them here?

DEFENDANT BAGON: No, sir.

THE COURT: You have no questions about them?

DEFENDANT BAGON: No, sir.

THE COURT: You intend to comply with them; correct?

DEFENDANT BAGON: Yes, sir.

THE COURT: So I'm going to impose the same conditions. Great.

Finally, Mr. DePergola.

Mr. DePergola, you were also represented in Florida?

DEFENDANT DePERGOLA: No.

THE COURT: No. I knew there was a Massachusetts, and that was the last one.

At the time you were presented, the judge set bail; correct?

DEFENDANT DePERGOLA: Yes.

THE COURT: You were present when he did it?

DEFENDANT DePERGOLA: Yes, your Honor.

THE COURT: You heard the conditions that he set?

DEFENDANT DePERGOLA: Yes, your Honor.

THE COURT: And then you signed the bond that memorialized all of those conditions, right?

DEFENDANT DePERGOLA: Yes.

THE COURT: Okay. You're going to sign a similar bond here that lays out the same conditions, with slight modifications about geographic limitations.

I'll also give you a little bit of time to meet some of the conditions that were set in Massachusetts; but, otherwise, it's the same conditions.

You intend to comply with those?

DEFENDANT DePERGOLA: Yes.

THE COURT: Do you have any questions about any of those conditions?

DEFENDANT DePERGOLA: No, I do not.

THE COURT: Is that sufficient, Ms. Kramer?

MS. KRAMER: I think so, your Honor. Thank you.

THE COURT: Ms. Kurland looks nervous.

MS. KURLAND: I always do, Judge.

THE COURT: All right.

I think that should be sufficient. So then the defendants that haven't signed the bond, do it today.

MS. KRAMER: Yes, your Honor. Mr. Ortiz instructed that they should go down to the fifth floor of this building to the magistrate court clerk's office.

THE COURT: And the bond is already prepared?

MS. KRAMER: It should be.

THE COURT: It may have to be slightly modified?

MS. KRAMER: I think actually the magistrate's court maybe must wait for something from your Honor in order to fill out the bond. But if your Honor is setting a one-week deadline for the signing of the bond in order for everyone to satisfy all the conditions, then it can be signed within the next week.

THE COURT: That's true. But I don't know how many people are traveling back to Florida, Massachusetts, or other places today.

MS. KURLAND: Judge, my understanding is that they could sign out on their signature today, and then our court will be in communication with the courts nearest where they live. It will be faxed there, the completed form, once we've had a chance to interview cosigners.

THE COURT: Do I need to send something to Mr. Ortiz now if people want to go straight to magistrate's court?

MS. KURLAND: Yes, I believe so.

THE COURT: All right.

So I'll just tell him it's the same conditions with the slight modifications.

MR. TOMAO: I'm sorry, your Honor.

THE COURT: State your name for the record.

MR. TOMAO: I'm sorry, your Honor, excuse me.

Peter Tomao on behalf of Mr. DePergola.

He's going to be going back to Massachusetts. I understand that he can sign the bond in Springfield?

THE COURT: No, I think the government has them sign here, right?

MS. KRAMER: Yes.

THE COURT: He can go to the clerk's office after this.

MR. TOMAO: Okay.

THE COURT: And hopefully the bond will be ready shortly.

MR. TOMAO: We don't have to go magistrate court though; we just go to the clerk's office, right?

THE COURT: You go to magistrate's clerk's office on the fifth floor.

MR. TOMAO: Thank you, your Honor.

THE COURT: You don't have to wait in the courtroom; just go straight to the clerk's office.

MR. TOMAO: Thank you, your Honor.

THE COURT: Anything else we need to cover today?

MS. KURLAND: Judge, two more points.

One is that the government anticipates submitting a protective order for the Court's consideration by the end of the week regarding discovery.

And then the second would be that time is excluded between now and the next conference of October 31st.

THE COURT: Okay. So the protective order is limiting the use of certain materials produced in discovery to ensure that they are not misused. Not unusual; it happens all the time. Usually the parties, the government and defense counsel, agree to those conditions, and then the Court signs the protective order as well, becomes an order of the Court.

That's what you're contemplating?

MS. KURLAND: Yes, your Honor.

THE COURT: Within the next week or two?

MS. KURLAND: Yes, your Honor.

THE COURT: That's fine. We'll send you that.

With respect to the last point Ms. Kurland made, I don't know if you heard it, but basically she's asking that the time between now and our next appearance on October 31st be excluded under the Speedy Trial Act. I think most of you probably know what that means, but if you don't, I'll explain it.

Generally speaking, you have a right to a speedy trial. Generally speaking, that would be within 70 days from your indictment. Now, 70 days is barely two months. The law recognizes not all cases are the same; some are a lot more complicated than others and have a lot more moving parts and are going to require a lot more time. The law authorizes a judge like me to extend that 70-day period. Or if you think of it as a stopwatch that is ticking away with 70 ticks, one for each day, I can stop the clock if there's a good reason.

Now, in this case, with 46 defendants, with wiretaps, with just enormous amounts of discovery, with complicated charges, this case is going to take a lot more than 70 days obviously. So I am going to stop the clock between today and our next conference, which is October 31st. So none of the time between now and then will count towards the 70 days.

Now, I don't want this case to be delayed and I don't want this case to be going on for years and years. At the same time, I want to make sure that the defendants and their lawyers have enough time to prepare a defense and to understand the case against them, to decide whether they want to make motions. All of that takes time. So I have to strike a balance between the need for speed and the need to prepare. So that's a balance I will make sure I'm carefully weighing.

Certainly the time between now and October 31st will not count towards the speedy trial clock in the interest of justice.

Does anybody have an objection to that? I didn't think so.

If anybody has any questions about what I just said, talk to your lawyers about it; they are very familiar with it. The statute that's involved is Title 18 of the United States

Code, Section 3161. It's pretty straightforward. But the point is that we're going to make sure we're moving quickly, not so quickly that people feel like they are not able to put on a case, but quickly enough so that the public's interest and your interest in a speedy trial is respected. Okay?

So let's do this: I'm going to ask anybody who's not a lawyer or an attorney to start filing out now so we can have people -- so we can use the elevators efficiently and get in and out of this room efficiently.

For lawyers who need to talk to the government, sign some forms, you can do that now. For lawyers who need to get down to the clerk's office, give us a little bit of time because I have to contact the clerk's office. All right?

Good luck. Enjoy the rest of the summer. Thanks very much.

Let me thank the marshals who did a tremendous job. Let me thank the court reporter as well.

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